IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE P.N.RAVINDRAN

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

WP(C).No. 32390 of 2007(E)

PETITIONER:

M.A.JOSE, AGED 47 YEARS, S/O.AUGUSTHY,
MANGALAM HOUSE, PARAPPUKARA VILLAGE, NANDIKARA
DESOM, MUKUNDAPURAM TALUK, THRISSUR, REP. BY HIS
WIFE & POWER OF ATTORNEY HOLDER BEENA, AGED 45
YEARS, MANGALAM HOUSE, NOW R/AT NELLAYI KARA,
PARAPPUKARA VILLAGE, MUKUNDAPURAM TALUK, TSR DIST.

BY ADV. SRI.K.A.JALEEL
SRI.N.K.POULOSEKUTTY

RESPONDENTS:
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1. PADMINI, AGED 46 YEARS,
W/O.PARAMESWARAN, KUMARAPPILLIL VEETTIL,
NOW RESIDING NEAR RAILWAY STATION,
KORATTY P.O., THRISSUR DISTRICT.

2. PARAMESWARAN,
KUMARAPPILLIL VEETTIL,
NOW RESIDING NEAR RAILWAY STATION,
KORATTY P.O., THRISSUR DISTRICT.

3. THE SUB INSPECTOR OF POLICE,
KORATTI POLICE STATION,
KORATTY P.O.

4. THE SUPERINTENDENT OF POLICE,
THRISSUR DISTRICT.

ADDL. RESPONDENTS:

5. JAYAN, S/O.PADMAVATHI AMMA,
MUKKRAYATH KANAKKAPARAMPIL,
ANNANADU P.O., PIN-680 307,
THRISSUR DISTRICT.

6. SUDHAKARAN, NAMBIDIVEETTIL,
   ANNANADU P.O., PIN-680 307,
   THRISSUR DISTRICT.

7. RAVI, S/O.PARVATHY AMMA, MANJALIVALAPPIL,
   ANNANADU P.O., PIN-680 307,
   THRISSUR DISTRICT.

(ADDL. R5 TO R7 ARE IMPLEADED AS PER ORDER DT. 14.11.07 IN IA 14870/07)

BY GOVERNMENT PLEADER SRI.P.A.SALIM.
SMT.K.V.BHADRA KUMARI
SRI.K.S.BHARATHAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC 32390/07

APPENDIX

PETITIONER'S EXTS.

EXT.P1 - TRUE COPY OF SALE CERTIFICATE DATED 29.7.2005 IN O.S.NO.347/01 – EP NO.176/03 OF THE MUNSIFF'S COURT, CHALAKUDY.

EXT.P2 - TRUE COPY OF JUDGMENT DATED 31.7.2003 IN OS 347/2001 OF THE MUNSIFF'S COURT, CHALAKUDY.

EXT.P3 - TRUE COPY OF RECEIPT OF EXECUTION OF THE EP 176/2003 IN OS 347/01 TAKING POSSESSION OF THE PROPERTY BY THE PETITIONER, DATED 10.8.2006.

EXT.P4 - TRUE COPY OF COMPLAINT DATED 27.10.2007 FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT FOR POLICE PROTECTION.

RESPONDENTS' EXTS.

EXT.R7(a) – TRUE COPY OF THE ASSIGNMENT DEED BEARING NUMBER 1780/2000 OF ANNAMANADA SRO DATED 2.6.2000 EXECUTED BY THE 1ST RESPONDENT IN FAVOUR OF THE ADDL. 5TH RESPONDENT.

EXT.R7(b) – TRUE COPY OF THE REGISTERED DOCUMENT BEARING NO.3763/2000 OF ANNAMANADA SRO DATED 4.12.2000 IN FAVOUR OF ADDL.6TH RESPONDENT.

EXT.R7(c) – TRUE COPY OF THE REGISTERED DOCUMENT BEARING NUMBER 682/2004 OF ANNAMANADA SRO BY THE ADDITIONAL 6TH RESPONDENT TO 7TH RESPONDENT'S WIFE SMT.C.RADHAMANI DATED 4.3.2004.

/TRUE COPY/

K.BALAKRISHNAN NAIR &
P.N.RAVINDRAN, JJ.

W.P.(C) NO. 32390 OF 2007-E

Dated 17th December, 2007.

JUDGMENT

Balakrishnan Nair, J.

The petitioner claims ownership and possession of 5.875 cents of land comprised in Survey No.243 of Kallur Vadakkum Muri Village, Annanadu desom in Chalakudy. He is the auction purchaser of the property. Ext.P1 is the sale certificate issued to him by the Munsiff's Court, Chalakudy in execution of the decree in O.S.No.347/2001. The judgment in that suit is Ext.P2. When the petitioner went to the said property on 26.10.2007, it was found that the same was fenced on all four sides by the 1st respondent, who was the erstwhile owner of it. Therefore, he filed Ext.P4 petition before the police, seeking protection to remove the barbed wire fence and enter his property. When no protection was extended, this writ petition is filed, seeking appropriate reliefs.

2. The 1st respondent submitted that additional respondents 5 to 7 are the present owners of the property and therefore, they are the persons to be heard in the matter.

3. The additional 7th respondent has filed a counter affidavit, in which

it is submitted that the 5th respondent and the wife of the 7th respondent have purchased portions of the property covered by Ext.P1 long before the passing of the decree and even before the filing of the suit. The land purchased by them is used as a pathway. To secure the pathway, they have erected the fence.

4. The learned Government Pleader submitted that this being a civil dispute, the police cannot interfere in it.

5. We heard the learned counsel on both sides. The dispute between the parties is of a civil nature, which has to be adjudicated by the competent civil court. Therefore, the petitioner has got an efficacious remedy of moving the competent civil court for appropriate reliefs. If the orders of the civil court are not obeyed, the court has got powers to address the police to render assistance to enforce them. In view of the above position, the writ petition is dismissed without prejudice to the contentions of both sides.

K.BALAKRISHNAN NAIR, JUDGE.

P.N.RAVINDRAN, JUDGE.

Nm/